AMENDED IN ASSEMBLY APRIL 30, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL No. 1807

Introduced by Assembly Member Takasugi

February 10, 1998

An act *to add Sections 401.15 and 5096.3 to the Revenue and Taxation Code,* relating to taxation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1807, as amended, Takasugi. Property taxation: airline property and possessory interests.

Existing property tax law provides that all property is subject to taxation at its full value, unless that property is otherwise exempted from taxation in whole or in part pursuant to either state or federal law.

This bill would, pursuant to legislative findings and declarations, ~~declare the intent of the Legislature to enact those provisions that will resolve outstanding issues arising from prior and ongoing tax assessments made with respect to airline property and the taxable possessory interests of airlines in publicly owned airports~~ *require any of certain counties, if specified airlines execute a written settlement agreement or waiver, as provided, with that county, to issue specified total amounts of credits to those airlines against property taxes from the 1998–99 fiscal year to the 2002–03 fiscal year, inclusive. This bill would also provide, for fiscal years to the 1997–98 fiscal year, inclusive, for the 1998–99 fiscal year to the*

2002–03 fiscal year, inclusive, and for the 2003–04 fiscal year, with respect to any county that provides these credits against future taxes, that the assessed value of certificated aircraft shall be deemed to be the amount entered on the tax roll with respect to those aircraft if certain conditions are met.

This bill would make legislative findings and declarations as to the necessity for a special statute.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $^{2}/_{3}$. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) As a result of both ambiguities in the law and conflicts between regulations and court decisions, one of the most difficult and contentious property tax assessment issues in recent years has been the assessment of airline property and possessory interests in publicly owned airports.

(2) These ambiguities and conflicts have given rise to litigation and appeals challenging assessments involving hundreds of millions of dollars of property tax revenues.

(3) The uncertainty created by pending litigation and appeals over the assessment of airline property and possessory interests in publicly owned airports is disruptive to both airline industry tax planning and local government and school finance.

~~(b) It is the intent of the Legislature in enacting this act to facilitate resolution of the disputes over the assessment of airline property and possessory interests in publicly owned airports by codifying recommendations, produced by a county and airline industry working group, that:~~

~~(1) Dispose of all outstanding litigation and appeals over assessments on airline industry property and possessory interests in publicly owned airports.~~

~~(2) Define the right to assess, and method of assessing, the possessory interests of airlines in publicly owned airports.~~

~~(3) Establish assessment methodology for airline property.~~

~~(4) Create a presumption of correctness if county assessors follow the assessment guidelines provided in this measure.~~

~~(5) Mitigate the financial impact of this statutory change on local governments and schools by establishing a method by which the issuance of any prior-year refunds to litigating airlines would be treated as credits against future tax payments.~~

~~SEC. 2.~~

(b) It is the intent of the Legislature in enacting this act to facilitate the resolution of disputes over the assessment of airline personal property by codifying recommendations, produced by a county and airline industry working group, that do all of the following:

(1) Establish assessment methodology for certain airline property.

(2) Clearly establish a presumption or correctness if a county assessor follows the assessment methodology set out in this act and in Assembly Bill 2318.

(3) Dispose of outstanding litigation and appeals over aircraft assessments, and of the real property rights of certificated air carriers at publicly owned airports, other than interests in terminal, cargo, hangar, or other site-specific facilities.

(4) Mitigate the financial impact of the statutory changes made by this act on local governments and schools by establishing a method by which the issuance of any prior-year refunds to litigating airlines is replaced by the provision of credits against future tax payments.

SEC. 2. Section 401.15 is added to the Revenue and Taxation Code, to read:

401.15. (a) Notwithstanding any other provision of law, for any county that provides credits in compliance with Section 5096.3, the full cash values of certificated aircraft for each fiscal year to the 1997–98 fiscal year, *inclusive, are deemed to be those values enrolled by the county assessor or, in the case of a timely escape assessment upon certificated aircraft that is made on or after April 1, 1998, pursuant to Section 531, 531.3, or 531.4, the value enrolled upon that escape assessment, provided the escape assessment is made in accordance with subdivision (b).*

(b) For the 1998–99 fiscal year to the 2002–03 fiscal year, inclusive, and including any escape assessment levied on or after April 1, 1998, for any fiscal year to the 2002–03 fiscal year, inclusive, certificated aircraft shall be presumed to be assessed at full market value if all of the following conditions are met:

(1) Value is based upon original cost. In the case of aircraft purchased from the manufacturer, the original cost shall be the greater of the following:

(A) Taxpayer's book cost computed in accordance with generally accepted accounting principles.

(B) The cost established in a sale/leaseback or assignment of purchase rights transaction that transfers the benefits and burdens of ownership to the lessor.

Under either subparagraph (A) or subparagraph (B), transportation costs, capitalized interest, and the cost of any capital additions made to the aircraft to put it into service by the current owner, or any major modifications to change the model, to the extent not included in the taxpayer's book cost or sale/leaseback transaction, shall be included in the original cost.

(2) Original cost, including the cost of any additions, shall be adjusted from the date of the acquisition of the aircraft or the addition to the aircraft to the lien date, using the producer price index for aircraft and a 16-year straight-line percent good table starting from the delivery date of the aircraft to the current owner with a maximum combined factor of 25 percent, unless this adjustment results in a value less than the minimum value for that aircraft computed pursuant to paragraph (3), in which case that minimum value may be used.

(3) For certificated aircraft of a type that has been in revenue service for eight or more years, the minimum

value shall not exceed the average of the used aircraft prices shown in columns other than the "average new prices" column for used aircraft of the oldest model and type for that aircraft in the edition of the Airliner Price Guide most recently published as of the lien date. If the Airliner Price Guide ceases to be published, a guide agreed to by the airlines and the taxing counties shall be substituted.

(c) For the 2003–04 fiscal year, a certificated aircraft shall be presumed to be assessed at full market value if all of the following conditions are met:

(1) Value is based upon original cost. In the case of aircraft purchased from the manufacturer, the original cost shall be the greater of the following:

(A) Taxpayer's book cost computed in accordance with generally accepted accounting principles.

(B) Taxpayer's book cost plus one-half of the incremental difference between taxpayer's book cost and the cost established in a sale/leaseback or assignment of purchase rights transaction that transfers the benefits and burdens of ownership to the to the lessor.

Under either subparagraph (A) or subparagraph (B), transportation costs, capitalized interest, and the cost of any capital additions made to the aircraft to put it into service by the current owner or any major modifications to change the model, to the extent not included in the taxpayer's book cost or sale/leaseback transaction, shall be included in the original cost.

(2) Original cost, including the cost of additions, shall be adjusted from the date of the acquisition of the aircraft or the addition to the aircraft to the lien date, using the producer price index for aircraft and a 16-year straight-line percent good table starting from the delivery date of the aircraft to the current owner with a maximum combined factor of 25 percent, unless this adjustment results in a value less than the minimum value for that aircraft computed pursuant to paragraph (3), in which case that minimum value may be used.

(3) For certificated aircraft of a type that has been in revenue service for eight or more years, the minimum

value shall not exceed the average of the used aircraft prices shown in columns other than the "average new prices" column for used aircraft of the oldest model and type for that aircraft in the edition of the Airliner Price Guide most recently published as of the lien date. If the Airliner Price Guide ceases to be published, a guide agreed to by the airlines and the taxing counties shall be substituted.

(d) In order to calculate the values prescribed in subdivisions (b) and (c), the taxpayer shall furnish the county assessor with an annual property statement that includes aircraft original costs as defined in paragraph (1) of subdivision (b). In the event an air carrier fails to report original cost with respect to an aircraft of that carrier, an assessor may in that case, notwithstanding any other provision in this section, make an appropriate assessment pursuant to Section 501.

SEC. 3. Section 5096.3 is added to the Revenue and Taxation Code, to read:

5096.3. (a) To dispose of certain lawsuits and assessment appeals that have been filed, and to preclude the filing of other claims relating to the assessment, equalization, and assessability of certain possessory interests in publicly owned airports, and to aircraft valuation and equalization, by Alaska Airlines, Inc., American Airlines, Inc., Continental Airlines, Inc., Delta Airlines, Inc., Federal Express Corporation, Northwest Airlines, Inc., Trans World Airlines, Inc., United Airlines, Inc., United Parcel Service, U.S. Airways, Inc., Wings West Airlines, Southwest Airlines, and America West Airlines, whether in their own right or as successors in interests, counties shall, subject to subdivision (e), provide credits against future taxes in the following total amounts:

Alameda	*$ 4,455,110*
Contra Costa	*1,000*
El Dorado	*1,000*
Fresno	*264,630*
Humboldt	*500*

Kern	*33,540*
Los Angeles	*18,335,720*
Monterey	*148,560*
Orange	*2,916,995*
Riverside	*435,780*
Sacramento	*1,070,185*
San Bernardino	*1,991,405*
San Diego	*4,262,610*
San Joaquin	*1,000*
San Mateo	*13,544,005*
Santa Barbara	*167,880*
Santa Clara	*2,369,080*
Solano	*1,000*

(b) There is hereby created the Section 5096.3 Airlines Industry Group, which shall consist of one representative from each of the airlines named in subdivision (a). This group shall hereafter be referred to as the "Section 5096.3 AIG," and shall have the authority to allocate among its membership the credit amounts specified in subdivision (a). A total credit amount identified in subdivision (a) shall be allowed in the relevant county in equal installments for the 1998–99 fiscal year to the 2002–03 fiscal year, inclusive. The Section 5096.3 AIG shall, through a designated representative, provide to each county listed in subdivision (a), no later than three business days after the effective date of this section, the detail of the allocation of the credits among the various airlines. In no event shall a credit exceed the total tax due for any individual taxpayer. In the event that any member airline ceases to operate in any county listed in subdivision (a) during the period credits are to be provided under this section, the airlines may submit revised instruction to the county, but in no event can the total credit amount for any county in any year be increased beyond the levels set forth for that county in subdivision (a).

(c) In addition to the credits provided in accordance with subdivision (a), each county shall allow a credit against an escape assessment upon certificated aircraft,

levied on or after April 1, 1998, under subdivision (b) of Section 401.15 for fiscal years to the 1997–98 fiscal year, inclusive, when the escape is based upon the cost established in a sale/leaseback or assignment of purchase rights transaction. The amount of the credit shall be equal to the tax on one-half of the value increase, plus interest and penalties, due to using a sale/leaseback transaction or an assignment of purchase rights transaction.

(d) Upon enrollment of any escape assessment described in subdivision (a) of Section 401.15, the county assessor shall provide the county auditor with the information necessary to calculate the credit required by subdivision (c).

(e) No county shall be required to provide the credits specified in subdivisions (a) to (c), inclusive, unless all airlines described in subdivision (a), who have property that is assessed in that county, have all entered into a written settlement agreement or alternatively, at the request of the county, have all executed a written waiver with that county. Upon the execution of a settlement agreement or waiver by the relevant airlines described in subdivision (a) with a county listed in that subdivision, that county shall be required to provide the credits set out in this section. The agreement or waiver shall include a waiver of all statutory and constitutional rights to challenge the valuation and equalization of certificated aircraft through the 2003–04 fiscal year, provided that the assessments are established in accordance with Section 401.15, and all statutory and constitutional rights to challenge the valuation, equalization, and assessability of possessory interest in publicly owned airports, other than an interest in terminal, cargo, hangar, or other buildings leased in whole or in part by an airline, provided that the valuations made for the 1998–99 fiscal year and each fiscal year thereafter are established in conformance with Section 107.9.

SEC. 4. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the *unique legal, fiscal, and administrative issues faced by the counties specified in this act with respect to unresolved disputes in those counties concerning the proper taxation of certificated aircraft.*

SEC. 5. This act shall become operative only if Assembly Bill 2318 is enacted and becomes effective on or before January 1, 1999.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

This measure is necessary to provide guidance and clarification that is essential to the fair and efficient taxation of airline industry property and possessory interests in publicly owned airports in the current year, and to clarify the status of prior-year property tax payments that have funded essential services provided by local governments and schools.

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